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# EEO FOCUS NEWS YOU CAN USE



This edition is a simple “how to” guide on EEO related matters

## What you should do when an employee requests Reasonable Accommodation

Accommodation applies to employees for non-work related long-term or permanent disabilities. The reasonable accommodation process is an interactive and flexible process between employees and management officials.

1. Be tuned in to your employees. Most employees will not use the words “reasonable accommodation;” instead they may say something along the lines of “I’m having difficulty performing my duties due to a medical condition.”
  2. If you believe an employee is making a verbal request for reasonable accommodation (RA), don’t assume anything. Instead have a discussion with the employee and simply ask, “Are you requesting an accommodation?”
  3. Tell your employee you are concerned about their health and the performance of their duties.
  4. Have the employee complete Appendix B included in the Department of the Army’s Procedures for Providing Reasonable Accommodation for Individuals with Disabilities. (available at: <http://www.carson.army.mil/EEO>)
  5. If the employee’s disability/medical concerns are not readily apparent, request the employee provide medical documentation to support the request. Inform the employee to provide the medical documentation to the Occupational Health Clinic.
  6. Provide a copy of the completed Appendix B to the EEO Office’s Disability Program Manager.
  7. If you can provide the requested accommodation do so. The EEO Office will assist you in drafting a letter to provide to the employee regarding the approval of the requested accommodation.
  8. If you cannot provide the requested accommodation discuss the accommodation request with the EEO Office Disability Employment Program Manager for possible alternatives to the requested accommodation.
  9. If you believe the employee cannot be accommodated in their current position, contact the EEO Office Disability Program Manager to coordinate a Reasonable Accommodation Committee Meeting to discuss alternative positions in which the employee may be accommodated. *Reassignment is the accommodation of last resort.*
  10. Attempt to temporarily accommodate an employee until a determination can be made on the reasonable accommodation request. Forms of accommodation can include restructuring duties, work hours or break periods and flexible leave approval.
- A reasonable accommodation is a change in the work environment that would enable an individual to enjoy equal employment opportunities. An essential element of reasonable accommodation is the interaction between the employee and management to ensure consideration of alternatives, options and potential solutions are explored to meet the needs of the agency and the employee.

By: Patricia Rosas, Disability Program Manager

## Proactive Steps to Prevent EEO Complaints



**Sound management practices are the key to avoiding problems.**

**Communication or lack of it is the foundation for most EEO complaints.**

**Appearances – an employee's perception does matter.**

**An open mind & genuine desire to find workable solutions, rather than winning arguments, are essential tools in avoiding EEO complaints.**

**Be consistent in your expectations.**

**Model appropriate behavior.**

**Post EEO policy letters on all employee bulletin boards.**

**"Equal rights for all, special privileges for none" Thomas Jefferson**

## What to do when you have an EEO complaint filed by one of your employees

What should you do when an employee files an EEO Complaint based on civil rights protections? An employee is protected by federal law from discrimination in employment matters that are based on: **National Origin, Religion, Race/Color, Disability (mental/physical), Sex, Age (40+), Genetics, or Reprisal** (for participating in EEO activities whether as the complainant or as a witness).

1. First, don't let the complaint get personal. Employees have the right to file a complaint if they believe they have been discriminated against.
2. Ensure your employee is permitted reasonable duty time to work on his/her complaint and visit the EEO Office.
3. Contact the EEO staff if you have questions. The staff will explain each step of the complaint process to ensure you understand your role during each stage of the EEO complaint.
4. Ensure confidentiality and only discuss the employee's EEO complaint on a need-to-know basis.
5. Cooperate and ensure your subordinates fully cooperate with the EEO Counselor, mediator or investigator as well as the complainant's representative.
6. Provide personnel records and copies of records or documents related to the complaint when asked by the EEO Counselor or a member of the EEO staff.
7. Ensure a reasonable effort is made to resolve the complaint at the earliest possible stage of the EEO complaint process.
8. When the employee accepts mediation, come to the table and mediate with an open mind and genuine desire to find workable solutions to resolve the issue at the lowest level possible.
9. Work with the Labor Counselor to present the agency's position with regard to the complaint and be able to articulate non-discriminatory reasons for your employment actions.
10. Ensure your employee is not reprimed against for filing an EEO complaint and witnesses are not reprimed against for participating in the EEO inquiry.

The key to avoiding EEO complaints is to monitor your employees' work interactions; stop inappropriate behaviors; get to know your employees and communicate with them often; and be available to them when needed.

By: Bertha Ramirez, EEO Specialist

**EEO Policy Letters are available at <http://www.carson.army.mil/EEO>**

## Steps to Prevent Sexual Harassment Complaints



**Control social interactions; know what is happening in your work areas.**

**Common sense, not technical knowledge of the EEO law is the essential ingredient in dealing with employees and workplace issues.**

**Conduct an immediate inquiry into the allegations brought to your attention.**

**Take corrective action whenever inappropriate behavior is displayed.**

**Communicate any discomfort early on.**

**Let people know your boundaries.**

**Seek advice from the EEO Office.**

**“EEO -  
IT MAKES GOOD  
BUSINESS SENSE “**

## What to do when your employee alleges sexual harassment in the workplace

Sexual harassment at work occurs whenever unwelcome sexual conduct affects a person's job. If one of your employees makes an allegation of sexual harassment these steps will aid you in taking appropriate action.

1. Take any allegation of sexual harassment seriously. You have a responsibility to provide all employees with a work environment free from harassment. Consult with the EEO staff for their advice and assistance.
2. Talk with the employee who is bringing his/her concerns to your attention. Inform the employee that he or she is safe from retaliation and took appropriate action in reporting the incident or situation.
3. Inform the employee they can also contact the EEO Office and initiate an EEO pre-complaint. Your inquiry into the matter is not the same as an employee's EEO complaint.
4. Ask the employee to tell you the whole story in his or her own words. Listen; take notes. Write down relevant facts such as dates, times, situations, witnesses, and anything else that seems relevant.
5. Tell the person accused of sexual harassment. Indicate an allegation has been made and that no acts of retaliation or unethical actions will be tolerated. Ask the person to be patient while you conduct a thorough investigation which will include his/her side of the story.
6. Interview any potential witnesses in the same manner. Ask open-ended questions and seek facts that support or disprove the employee's allegations.
7. Interview the person who is accused of sexual harassment. Apply the same listening and respectful approach you accorded the person who lodged the allegation.
8. Take all the information you receive and attempt to reach a decision. Make the best decision that you can with the information you have.
9. If you believe the allegation of sexual harassment is substantiated, take appropriate disciplinary measures.
10. Conduct a follow-up session with the employee that brought the allegation to close the loop and indicate appropriate action has been taken to stop the harassment. Follow up by staying in tune with your workplace-control social interactions, and know what is happening in your work areas.

The best prevention of sexual harassment in the workplace is to establish a zero tolerance culture. Take corrective action whenever inappropriate behavior is displayed and remember appearances and employees' perceptions matter.

By Lashunda Blevins, EEO Specialist

### These EEO classes are still available for FY 10:

**Anti-harassment/EEO Annual Required Training for Civilian Employees.** DA requires that all civilian employees and all managers of civilian employees receive EEO training annually to address anti-harassment/prevention of harassment in the workplace. This training used to be known as "POSH (Prevention of Sexual Harassment)" but has been expanded to address all forms of illegal harassment.

#### When/Where

\* 11 Aug: 0800, 1000, 1300, McMahon Theater

\* 15 Sep: 0800, 1000, McMahon Theater

\* Or take the training on line at:

<https://lms.carson.army.mil/>

**NO FEAR Act Training.** Public Law (107-174), requires that all Federal employees receive training regarding their rights and remedies under Federal antidiscrimination and whistleblower protection laws. This training is only offered online at:

<https://lms.carson.army.mil/>

**EEO for Supervisors and Managers.** This training is critical for the agency to ensure that managers and supervisors know how to maintain a workplace free from harassment and discrimination. Leaders set the tone and enforce the agency's zero tolerance policy. This course provides detailed instruction on how to meet this requirement.

#### When/Where

\* 11 Aug: 0900, 1100, 1400, McMahon Theater

\* 2 Sep: 1400 – GMC, Bldg 1118

\* 15 Sep: 0900, 1100, McMahon Theater

**Reasonable Accommodation (RA) Process For Supervisors/Managers and interested employees.** This training will cover the policies and laws that define an individual with a disability and focuses on the reasonable accommodation request procedures. The course provides detailed instruction on how to process an employee's RA request.

#### When/Where

\* 2 Sep: 1300, 1500 - GMC, Bldg 1118

### What to do when you want to hire someone quickly

Schedule A is a non-competitive hiring authority for Excepted Service Appointments for Persons with Disabilities. Using the Schedule A appointing authority, found at 5 CFR § 213.3102(u), qualified candidates who meet the Office of Personnel Management's guidelines can be hired non-competitively without the typical recruitment process and without posting and publicizing the position.

1. Contact the EEO Office and alert the EEO Disability Program Manager of the job opening.
2. Determine what type of position you're filling - a temporary appointment, a time limited appointment (when the duties of the position do not require it to be filled on a permanent basis), or a permanent appointment.
3. Explain to the Disability Program Manager what competencies the ideal candidate should possess, thinking critically about the essential functions of the position (provide a position description if possible).
4. The Disability Program Manager will contact the local Wounded Warrior Program and the State Vocational Rehabilitation Office to see if there are any qualified candidates that possess the skill set for the vacant position.
5. The Disability Program Manager will obtain resumes from potentially qualified candidates and forward them to the hiring official.
6. Review the resumes and references of the applicants, conduct interviews, etc. and then make a selection.
7. If you are not satisfied with any of the Schedule A applicants, you retain the option of using the traditional competitive process to fill the vacancy.
8. If you choose a candidate from the resumes, relay the selection decision to the appropriate person within the Civilian Personnel Advisory Center who will extend an offer of employment after determining if the individual meets the job qualifications.
9. Once the offer has been accepted, a start date may be established to bring the candidate on board.
10. What about probationary periods? Depending on the type of appointment, probationary periods typically last up to two years. Schedule A candidates should be held to the same performance standards as all other employees. Once the probationary period has been successfully completed, they should be converted to permanent competitive status.

As a hiring official you may not look forward to the prospect of spending two months or more trying to fill a position. We know that excellent potential employees are lost because they too do not want to wait for a hiring decision. So what can you do? Use Schedule A! You won't be disappointed!